

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARK A. SKODA,

Defendant.

4:11CR3067

MEMORANDUM AND ORDER

This matter is pending before me regarding Mr. Skoda's motion for compassionate release. (Filing no. 142.) I will deny it.

Although Mr. Skoda has satisfied the obligation to exhaust his administrative remedies, I find and conclude that he should not be granted relief. Mr. Skoda is a two-time federal drug felon. After the first conviction, he violated his conditions of supervised relief and returned to prison *after* he had received a Rule 35(b) sentence reduction. In this case, I ultimately sentenced him, after a change in the law, to a reduced sentence of 240 months in prison, the minimum. Mr. Skoda is presently at a federal prison camp (Yankton) and, so far as I am able to determine, there are no pandemic infected inmates at that facility.¹ He does not contend otherwise.

He seems to be doing well. While he has some indication of medical problems such as asthma and COPD, they do not appear to be uncontrolled. Indeed, when reviewing the medical records, it appears that Mr. Skoda has, on occasion, voluntarily opted out of some forms of treatment for his medical problems. Furthermore, Mr. Skoda has been discharged to work with no restrictions.

¹ See COVID-19 Cases in the Bureau of Prison, available at <https://www.bop.gov/coronavirus/> (July 7, 2020).

In short, I do not believe Mr. Skoda is sufficiently vulnerable to Covid-19 to warrant relief. What he has provided me with in his motion and attachments shows that he is being well cared for and is not at serious risk. Still further, and very importantly, Mr. Skoda has demonstrated that he is a risk to the public by virtue of his previous convictions. Although Mr. Skoda has done reasonably well in prison, that does not detract from my concern that Mr. Skoda, if released early whether via a reduced sentence or a “furlough” to home confinement, remains a danger to the public. COVID-19 is not a get-out-of-jail card.

After considering the factors set forth in section 3553(a) to the extent that they are applicable, and the law specifically regarding compassionate release, it clear that, as things stand now, Mr. Skoda should serve out his sentence. I fully understand my discretion. I am not insensitive to the risks posed by Covid-19. However, that risk, in this case, appears to be minimal for this 55-year-old defendant who has been well taken care of by the Bureau of Prisons. Accordingly,

IT IS ORDERED that:

(1) The motion for compassionate release (Filing no. 142) pursuant to 18 U.S.C. § 3582(c)(1)(A)(i) and the First Step Act of 2018 is denied.

(2) The Clerk of Court shall provide copies of this Memorandum and Order to the Federal Public Defender, the United States Attorney, Mr. Skoda, and SUSPO Aaron Kurtenbach.

Dated this 8th day of July, 2020.

BY THE COURT:


Richard G. Kopf
Senior United States District Judge